

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LIBERTY ANNE WALDEN,

Petitioner,

Civil No. 2:22-CV-10341

HONORABLE VICTORIA A. ROBERTS

v.

JEREMY HOWARD,

Respondent.

/

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
MOTION FOR A CERTIFICATE OF APPEALABILITY (ECF No. 11) TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254, challenging her conviction for one count of first-degree criminal sexual conduct (CSC), M.C.L.A. 750.520b, and four counts of second-degree criminal sexual conduct, M.C.L.A. 750.50c. The Court denied the petition for a writ of habeas corpus with prejudice. The Court also denied Petitioner a certificate of appealability but granted Petitioner leave to appeal *in forma pauperis*. *Walden v. Howard*, No. 2:22-CV-10341, 2023 WL 2087960 (E.D. Mich. Feb. 17, 2023).

Petitioner filed a Notice of Appeal. (ECF No. 9). Petitioner also filed a motion for a certificate of appealability (ECF No. 11).

The proper procedure when a district court denies a certificate of appealability, as this Court did, is for the habeas petitioner to file a motion for a certificate of appealability before the appellate court in the appeal from the judgment denying the petition for a writ

of habeas corpus or a motion to vacate sentence. *See Sims v. U.S.*, 244 F.3d 509 (6th Cir. 2001)(citing Fed. R. App. P. 22(b)(1)). Petitioner's request for a certificate of appealability should be directed to the Sixth Circuit. *See Hayes v. Horton*, 606 F. Supp. 3d 676, 678 (E.D. Mich. 2022).

Accordingly, the Clerk of the Court is **ORDERED** to transfer the "Motion for a Certificate of Appealability" (ECF No. 11) to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: 4/4/2023